

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6274

JERARD STEVEN DAVIS,

Petitioner - Appellant,

v.

NORTH CAROLINA ATTORNEY GENERAL,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:20-hc-02177-D)

Submitted: August 23, 2022

Decided: November 4, 2022

Before GREGORY, Chief Judge, HEYTENS, Circuit Judge, and KEENAN, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Karen Oakley, LAW OFFICE OF KAREN OAKLEY, LLC, Cincinnati, Ohio, for Appellant.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jerard Steven Davis seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as untimely and, alternatively, unexhausted. *See Shinn v. Ramirez*, 142 S. Ct. 1718, 1731-32 (2022) (discussing exhaustion requirement); *Gonzalez v. Thaler*, 565 U.S. 134, 148 & n.9 (2012) (explaining that § 2254 petitions are subject to one-year statute of limitations, running from latest of four commencement dates enumerated in 28 U.S.C. § 2244(d)(1)). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When, as here, the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez*, 565 U.S. at 140-41 (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Davis has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED